BEFORE THE APPEALS BOARD FOR THE KANSAS DIVISION OF WORKERS COMPENSATION

BERNICE "KATHY" REIDELBERGER)
Claimant)
VS.)
) Docket No. 1,007,964
SALINA REGIONAL HEALTH CENTER)
Respondent)
AND	Ì
KANSAS HEALTH SERVICE CORPORATION)
Insurance Carrier)

ORDER

Claimant appeals the December 7, 2005 Award of Administrative Law Judge Bruce E. Moore. Claimant was denied benefits after the Administrative Law Judge (ALJ) determined that claimant had failed to prove that she suffered accidental injury arising out of and in the course of her employment on the date alleged and had further failed to prove that the condition for which she sought medical care, i.e., a broken hip, was related to any accidental injury arising out of and in the course of her employment with respondent. The Appeals Board (Board) heard oral argument on March 28, 2006.

APPEARANCES

Claimant appeared by her attorney, Norman R. Kelly of Salina, Kansas. Respondent and its insurance carrier appeared by their attorney, Dustin J. Denning of Salina, Kansas.

RECORD AND STIPULATIONS

The Board has considered the record and adopts the stipulations contained in the Award of the ALJ.

ISSUES

1. Did claimant suffer accidental injury arising out of and in the course of her employment on September 17, 2002?

2. If claimant did suffer accidental injury arising out of and in the course of her employment with respondent, what is the nature and extent of that injury and disability?

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- 3. Is claimant entitled to temporary total disability compensation benefits from September 17, 2002, to October 2, 2002?
- 4. Is respondent entitled to a set-off, pursuant to K.S.A. 44-501(h), in the amount of \$11,649.69?
- 5. Is claimant entitled to unauthorized and future medical benefits for the injuries alleged?

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Having reviewed the entire evidentiary file contained herein, the Board finds the Award of the Administrative Law Judge should be affirmed.

The Award sets out findings of fact and conclusions of law in significant detail. The Board adopts those findings and conclusions as its own and finds it unnecessary to repeat those findings and conclusions herein.

Claimant alleged accidental injury on September 17, 2002, when, while she was either walking up the stairs¹ or down the stairs², she developed a sudden pain in her right leg. Claimant grabbed ahold of a hand rail in order to keep from falling. Claimant acknowledged she did not fall, and there is no indication in this record that claimant's left leg or hip struck anything traumatically. Approximately six weeks later, she suffered a hip fracture while at home. Claimant contends her hip fracture was a direct and natural consequence of the September 17, 2002 incident at work.

The ALJ determined, after considering claimant's testimony and the testimony of several health care providers, that claimant failed to prove that she suffered accidental injury arising out of and in the course of her employment. Also, the ALJ found claimant failed to prove that her ongoing conditions and need for treatment for the fractured left hip were caused by any incidents occurring at her job with respondent. The Board concurs. The Board finds especially convincing the testimony of board certified radiologist William B. Garlow, M.D. Dr. Garlow, in reviewing the x-rays of September 17, 2002, found no indication of a stress fracture in claimant's hip. He further found the testimony by

¹ P.H. Trans. at 7, 12-13 and 47.

² R.H. Trans. at 13, 25, 26 and 27-28.

board certified orthopedic surgeon Todd D. Herrenbruck, M.D., to be suspect in that Dr. Herrenbruck, on reviewing the x-rays, was actually circling areas of the hip which were different on the September 17 versus the October 26, 2002 x-rays, possibly indicating different fracture sites.

The Board, in reviewing the medical opinions of Dr. Garlow and Dr. Herrenbruck, as well as those of Steven R. Henson, M.D., emergency medicine specialist, and Philip R. Mills, M.D., board certified in physical medicine and rehabilitation, determines that claimant has failed to prove that she suffered accidental injury arising out of and in the course of her employment on September 17, 2002. Moreover, claimant failed to meet her burden of proof that any condition associated with the fracture in claimant's left hip was connected to any work-related injury suffered while employed with respondent. In short, there is no causal relationship between claimant's hip fracture and her September 17, 2002 incident at work. The Board, therefore, finds the Award of the ALJ denying claimant's benefits in this matter should be affirmed.

AWARD

WHEREFORE, it is the finding, decision, and order of the Appeals Board that the Award of Administrative Law Judge Bruce E. Moore dated December 7, 2005, should be, and is hereby, affirmed in all regards.

Dated this day of Ap	oril, 2006.
	BOARD MEMBER
	BOTATO MEMBER
	BOARD MEMBER
	BOARD MEMBER

c: Norman R. Kelly, Attorney for Claimant

IT IS SO ORDERED

Dustin J. Denning, Attorney for Respondent and its Insurance Carrier

Bruce E. Moore, Administrative Law Judge

Paula S. Greathouse, Workers Compensation Director